



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

August 9, 2004

Ref: 8ENF-UFO

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dennis H. Weaver
Mouse Out, LLC
308 East Denver
Holyoke, CO 80734

**RE: ORDER to Stop the Sale, Use or Removal
of MouseOut**

Dear Mr. Weaver:

Please find enclosed an ORDER from the United States Environmental Protection Agency (US EPA) concerning the product MouseOut. The enclosed ORDER requires that you stop the sale, distribution or use this pesticide. This ORDER shall extend to all quantities of this product wherever located within the ownership, control or custody of D&J Hardware and/or MouseOut LLC. This ORDER is *effective immediately* upon receipt.

Under Section 13 of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136k(a), the U.S. EPA is authorized to stop the sale, use or removal of any pesticide believed to be in violation of the statute. The term "pesticide" means "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests...." As explained in the enclosed ORDER, MouseOut, which makes the pesticidal claim it repels mice, is considered a pesticide, and also is not registered.

If you have questions concerning this Order, you are encouraged to contact Mr. Tim Osag or Mr. Dennis Jaramillo, of my staff at 303-312-6582 or 303-312-6203, respectively.

Sincerely,

SIGNED

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



Printed on Recycled Paper

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

DOCKET NO. FIFRA-08-2004-0009

TO: Mr. Dennis Weaver)
)
Mouse Out, LLC)
)
and)
)
D & J Hardware)
310 East Denver Street)
Holyoke, Colorado 80734)
_____)

**STOP SALE, USE
OR REMOVAL ORDER**

A. INTRODUCTION

1. The United States Environmental Protection Agency (“EPA” or “Agency”) is authorized under section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), as amended, 7 U.S.C. § 136k(a), to issue orders prohibiting the sale, use, or removal of any pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA.

2. The Director of the Technical Enforcement Program, U.S. EPA Region 8, has been duly delegated the authority to issue such orders.

3. FIFRA § 12(a)(1)(A), 7 U.S.C. § 136(j)(a)(1)(A), provides that it shall be unlawful for any person in any State to distribute or sell to any person any unregistered pesticide under FIFRA Section 3, 7 U.S.C. § 136a.

4. Mouse Out, LLC, is incorporated in the State of Colorado. Mr. Dennis H. Weaver is listed as the Registered Agent for Mouse Out, LLC, with the Colorado Secretary of State’s Office. According to the Colorado Secretary of State’s Office, the Registered Agent is “[a] natural person or an entity, appointed by a business entity of record with the Colorado Secretary of State, to receive service of process for that business entity.”

B. ORDER

5. EPA hereby ORDERS, *EFFECTIVE IMMEDIATELY*, Mouse Out, LLC, and its officers, agents, affiliates, employees, and directors, to stop the sale, use or removal of the pesticide product MouseOut.

6. This ORDER applies to all containers of the pesticide product MouseOut

wherever located within the ownership, control, or custody of D&J Hardware and/or MouseOut, LLC. The pesticide product MouseOut shall not be sold, used or removed other than in accordance with the provisions of this ORDER or any further Stop Sale, Use, or Removal Orders that may be issued in connection with the pesticide product MouseOut.

7. Any person violating the terms or provisions of this ORDER shall be subject to CIVIL or CRIMINAL PENALTIES or both as set forth in FIFRA § 14, 7 U.S.C. § 136(l).

8. This ORDER shall be ***EFFECTIVE IMMEDIATELY*** upon receipt by MouseOut, LLC. and/or D&J Hardware.

C. BASIS FOR ORDER

9. As the seller and distributor of a pesticide, MouseOut, LLC, is in violation of FIFRA § 12(a)(1)(A), 7 U.S.C. § 136(j)(a)(1)(A), which provides in relevant part that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under FIFRA Section 3, 7 U.S.C. § 136(a). MouseOut is not a registered pesticide.

D. OTHER MATTERS

10. This ORDER specifically exempts the delivery of MouseOut to any authorized agent of the United States Government.

11. For resolution of this ORDER, you are encouraged to contact: Mr. Tim Osag, EPA Region 8 (ENF-UFO); 999 18th Street, Suite 300; Denver, CO 80202. Mr. Osag's phone number is: (303) 312-6582.

8.6.04

Date

SIGNED

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

IN THE MATTER OF: **Mouse Out, LLC., and D & J Hardware,**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the STOP SALE USE OR REMOVAL ORDER were hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was sent certified mail to:

(Registered Agent Address)
Dennis H. Weaver
310 East Denver Street
Holyoke, Colorado 80734

Date

Information On File

ID Number: 19921008187
Name: C.P.&S. INC. OF HOLYOKE

Registered Agent: DENNIS H. WEAVER
Registered Agent Street Address: 308 E DENVER, HOLYOKE, CO 80734
Registered Agent Mailing Address:

Principal Office Street Address: 308 E DENVER, HOLYOKE , CO 80734
Principal Office Mailing Address:

Status: Good Standing
Form: Corporation
Jurisdiction: Colorado
Formation Date: 1992-01-28
Term of Duration: Perpetual
Annual Report Month: January

ID Number: 20001148121
Name: MOUSE OUT, LLC

Registered Agent: DENNIS WEAVER
Registered Agent Street Address: 308 E DENVER, HOLYOKE, CO 80734
Registered Agent Mailing Address:

Principal Office Street Address: 308 E DENVER, HOLYOKE , CO 80734
Principal Office Mailing Address:

Status: Good Standing
Form: Limited Liability Company
Jurisdiction: Colorado
Formation Date: 2000-07-31
Term of Duration: Perpetual
Annual Report Month: July

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON
AUGUST 9, 2004.**